

**Illinois Department of Commerce and  
Economic Opportunity**

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# Approval of the Energy Efficiency and Demand-Response Plan Pursuant to 220ILCS 5/8-103 and 220 ILCS 5/8-104

Philip H. Mosenthal

**The People of the State of Illinois**

October 23, 2013

**(I.) Identification and Qualifications**

**Q. Please state your name and business address.**

A. Philip H. Mosenthal, Optimal Energy, Inc., 10600 Route 116, Hinesburg, VT 05461.

**Q. On whose behalf are you testifying?**

A. I am testifying on behalf of the People of the State of Illinois (“the People” or “AG”).

**Q. By whom are you employed and in what capacity?**

A. I am the founding partner in Optimal Energy, Inc., a consultancy specializing in energy efficiency and utility planning. Optimal Energy advises numerous parties including utilities, non-utility program administrators, government and environmental groups.

**Q. Have you submitted testimony before the ICC before?**

A. Yes. I have testified in numerous dockets related to the Commission’s review of utility-run energy efficiency programs mandated by Sections 8-103 and 8-104 of the Public Utilities Act (“the Act”).

**Q. Please provide a summary of your qualifications and experience.**

A. I have 30 years of experience in all aspects of energy efficiency, including facility energy management, policy development and research, integrated resource planning, cost-benefit analysis, and efficiency and renewable program design, implementation and

1 evaluation. I have developed numerous utility efficiency plans, and designed and evaluated  
2 utility and non-utility residential, commercial and industrial energy efficiency programs  
3 throughout North America, Europe and China.

4 I have also completed or directed numerous studies of efficiency potential and  
5 economics in many locations, including China, Colorado, Delaware, Kansas, Maine,  
6 Massachusetts, Michigan, New England, New Jersey, New York, Quebec, Texas, and  
7 Vermont. These studies ranged from high level assessments to extremely detailed, bottom-  
8 up assessments evaluating thousands of measures among numerous market segments. A  
9 current example of the latter is an ongoing project to analyze the electric, natural gas and  
10 petroleum efficiency and renewable energy potential for New York State, on behalf of the  
11 New York State Energy Research and Development Authority (NYSERDA).

12 I am currently a lead advisor for business energy services in Rhode Island and  
13 Massachusetts on behalf of the Energy Efficiency Resource Management Council and the  
14 Energy Efficiency Advisory Council, respectively, overseeing and advising on utility  
15 program administrators plans, program designs, implementation and performance in those  
16 states.

17 I have been actively engaged in the Illinois Stakeholder Advisory Group (SAG)  
18 since its inception, representing the People of the State of Illinois. Prior to co-founding  
19 Optimal Energy in 1996, I was the Chief Consultant for the Mid-Atlantic Region for  
20 XENERGY, INC. (now DNV-KEMA). I have a *B.A.* in Architecture and an *M.S.* in  
21 Energy Management and Policy, both from the University of Pennsylvania. My full  
22 resume has been provided to the ICC in many past dockets.

23

24

**(II.) Introduction and Summary of Testimony**

**Q. What is the purpose of your testimony in this proceeding?**

A. My testimony addresses DCEO's Plan 3 (Electric and Gas Efficiency plan for electric program years 7-9 and gas program years 4-6) provided pursuant to Sections 8-103 and 8-104 of the Act.

**Q. Please summarize your testimony.**

A. My testimony focuses on the following areas that are addressed in DCEO's Plan 3:

1. The appropriateness of DCEO's proposed programs, goals, budgets and cost-effectiveness results;
2. The appropriateness of DCEO's proposal to discontinue adjusting gross savings based on a net-to-gross ratio estimate;
3. DCEO's request for flexibility to modify its Plan with no limitations;
4. Evaluation, measurement and verification concerns;
5. Discussion of the Illinois Power Authority ("IPA") procurement mechanism established under Section 16-111.5B of the Act, and possible solutions to allocate additional efficiency services targeted to low income customers through this mechanism; and
6. Discussion of the current SAG process.

**Q. Please explain your major points related to each of the above major testimony areas.**

1. **Programs, Goals, Budgets and Cost-effectiveness:** DCEO has proposed a portfolio of programs, many of which it projects are not cost-effective. Further, the

1 rationale behind many of these programs and how they are structured is not clear or  
2 compelling. Overall, for the public sector they have two main programs  
3 (“Standard” and “Custom”) that are modeled on the successful private sector  
4 business programs and intended to cover all cost-effective efficiency opportunities  
5 in the public sector. However, they then propose additional “targeted programs”  
6 focused on specific opportunities. While targeting specific initiatives to particular  
7 markets and opportunities can be a good strategy, I do not understand the logic in  
8 separating these out from the main programs that already appear to cover these  
9 opportunities, rather than just providing more targeted services within these  
10 programs. I recommend DCEO focus on comprehensive solutions for its public  
11 customers without complicating their offerings. Some of these “programs” are  
12 more appropriately simply services to support the main programs, and separating  
13 out their budgets results in a very unclear picture of what programs are cost-  
14 effective and why certain things are targeted.

15 2. **Net-to-Gross Adjustments:** DCEO proposes to eliminate NTG ratio estimation  
16 and adjustments. Further, it has made significant downward adjustments to  
17 proposed goals based on “realization rates” that are inappropriate. The ICC should  
18 maintain the current construct of estimating net savings for purposes of goals, and  
19 require that realization rates for planning purposes are assumed to be 1.0. DCEO  
20 has indicated that if they must adjust for NTG ratios they prefer to do this on a  
21 retroactive basis. I support that approach for DCEO.

22 3. **Flexibility:** DCEO requests flexibility to modify its Plan with no limitations.  
23 However, approval of plans becomes somewhat meaningless if DCEO obtains such  
24 unlimited flexibility authorization. The goals DCEO puts forth are integrally tied to  
25 its proposed mix of resources.

1       4. **Evaluation, Monitoring and Verification (“EM&V”):** DCEO raises a number of  
2       EM&V issues in its Plan, but is not entirely clear about how they would work. For  
3       example, it proposes a new codes and standards initiative, and suggests it wants to  
4       claim savings for it, but as far as I can tell does not provide a detailed proposal  
5       about how these savings would be counted. Given that these programs can be very  
6       difficult to estimate savings from, and typically take a number of years to see  
7       effects and evaluate them, it is unclear exactly what DCEO is proposing. Similarly,  
8       there are many unanswered questions about how to count savings from various  
9       “programs” that are more realistically viewed as simply additional services  
10      supporting core programs. These issues raise concerns about double counting of  
11      savings, and what additional incremental savings are supposed to come from these  
12      programs.

13     5. **Role of the IPA procurement mechanism in expanding low income efficiency**  
14     **services:** DCEO submitted a proposal to the IPA to expand and/or enhance its low  
15     income program offerings through the IPA procurement mechanism. However, IPA  
16     has determined they could not except this proposal for legal reasons. In addition,  
17     DCEO maintains that participating in the utilities existing RFP bidding process to  
18     submit programs to the IPA would require it to violate State procurement laws. I  
19     discuss this issue and encourage the Commission to find a solution or to order the  
20     appropriate parties to convene a workshop to develop a satisfactory alternative  
21     approach to allow for expanded low income programs to be submitted to the IPA in  
22     2014.

23     6. **Continued Stakeholder Advisory Group (“SAG”) Participation.** As discussed  
24     below, I commend DCEO for its participation and work in the SAG to date, and

1           urge the Commission to adopt a final order that outlines future SAG objectives that  
2           include DCEO's and the Utilities' continued participation in that process.

3  
4   **(III.) Programs, Goals, Budgets and Cost-effectiveness**

5  
6   **Q.     Please summarize your concerns about DCEO's portfolio overall.**

7   **A.     DCEO has two main tasks: to serve the public and low income sectors. As a result,**  
8   they have a number of programs targeting these sectors. For the public sector, DCEO has  
9   traditionally offered two main programs, consistent with the utility business sector  
10   programs: Standard and Custom. The Standard program offers pre-specified rebates for  
11   specific measures that are generally cost-effective in most situations and for which savings  
12   can be estimated on average and promoted to large numbers of customers. The Custom  
13   program is designed to provide customized services to these customers for all other cost-  
14   effective measures. Typically, these programs provide a high level of marketing and  
15   outreach; provision of detailed technical assistance and analysis to identify opportunities  
16   and encourage their adoption; "handholding" services like assisting customers with  
17   entering into performance contracting or financing agreements, developing bids and  
18   specifications, and procuring contractors; and financial incentives to overcome first cost  
19   barriers and encourage the customers to adopt the recommended measures. I support these  
20   two key programs for the public sector.

21           However, DCEO has proposed a number of additional programs, some of which  
22   appear to be more like services that any custom program customer should be automatically  
23   eligible to receive. For example, the Smart Energy Design Assistance ("SEDAC") program  
24   is described as a technical assistance ("TA") program to provide services that are typically

1 necessary for any custom projects. Yet DCEO budgets this program separately, and  
2 estimates separate savings for it. Ordinarily, I would expect any custom program to  
3 provide TA services in order to assist customers in developing projects. Given the Custom  
4 program TRC benefit-cost ratio is only 1.17, and is projected to spend about \$5 million per  
5 year, the additional services listed under SEDAC with a budget of \$3.75 million per year  
6 would likely make the entire custom effort non-cost-effective if modeled together, as they  
7 should have been.<sup>1</sup> Further, I do not understand why providing TA services without  
8 actually leading to final installation and financial assistance would be considered a  
9 “program,” nor why it should be administered separately to customers. This will simply  
10 cause confusion in the market, and make it more difficult to understand the cost-  
11 effectiveness of the whole effort.

12 In fact, the program description for SEDAC indicates that out of 400 initial  
13 consultations, it expects 85 projects to follow through to completion.<sup>2</sup> In my experience,  
14 performing energy audits without first prescreening customers to identify likely interest in  
15 implementation and actually participating in the program can be a costly and wasteful  
16 experience. DCEO should combine this service into its custom program to provide  
17 integrated services to those customers who are actually motivated to follow through with  
18 implementation. This would allow it to better manage these TA resources and ensure  
19 studies are only done when there is a high likelihood of them leading to adoption of  
20 efficiency measures.

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<sup>1</sup> It does not appear that DCEO performed a cost-effectiveness screening separately on SEDAC despite showing separate budgets and savings from it in attachments to its response to data request JLH 1.1. Given that the net benefits from the Custom program appear very small, it seems likely that if SEDAC (with almost as large a budget) was included in the overall Custom program budget that it would not be cost-effective.

<sup>2</sup> DCEO Exhibit 4.1.



1

2 **Q. Are there other examples of this concern?**

3 **A.** Yes. DCEO has proposed the High Impact Natural Gas Efficiency Bonus  
4 (“HINGE”) program. This program is described as a way to provide “bonus incentives” for  
5 large gas projects. I support the concept of offering additional funds for customers to adopt  
6 more extensive efficiency opportunities and to be more comprehensive, so long as those  
7 projects are cost-effective and would not likely have happened without the additional  
8 funds. However, I see no evidence this would be the case. In fact, much about what DCEO  
9 has articulated about HINGE seems to do just the opposite.

10 DCEO states in its program descriptions that the Custom program will provide  
11 incentives up to 75% of the full cost of retrofit (early retirement projects, including  
12 material and labor costs) and 100% of the incremental cost for replacement (lost  
13 opportunity projects).<sup>3</sup> Yet DCEO’s screening of this program models incentives as  
14 accounting on average for only one-third of the total efficiency measure costs. While this  
15 may be a reasonable program average, given the program design of providing up to much  
16 higher incentive levels, it is unclear what the need for a completely separate program to  
17 simply provide a bonus incentive is. In fact, given that lost opportunity measures can be  
18 offered 100% incremental cost coverage, it is hard to imagine DCEO actually paying  
19 HINGE customers more than that. The HINGE program states: “The HINGE bonus is  
20 designed to be complimentary with the Public Sector Standard and Custom Programs and  
21 provide increased incentives for larger natural gas efficiency projects.”<sup>4</sup>

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<sup>3</sup> DCEO Exhibit 2.2.

<sup>4</sup> DCEO Exhibit 2.11.

1           Second, and perhaps even more important and confusing, DCEO has projected that  
2   the HINGE program is not even cost-effective, with an estimated TRC benefit-cost ratio of  
3   0.86.<sup>5</sup> In other words, DCEO is proposing to provide additional funds that the Custom  
4   program already can offer under a separate program only to large gas projects to capture  
5   additional savings that it projects are not even cost-effective. Since incentives are by  
6   definition a transfer payment, this is not a result of the higher incentive. Rather, it appears  
7   DCEO plans to award bonus funds to customers to do bigger, but not actually cost-  
8   effective projects. This makes no sense.

9  
10   **Q.     Are there other concerns with the HINGE program?**

11   **A.**     Yes. While DCEO describes this program as allowing for bonus incentives to  
12   encourage larger projects that might not otherwise happen, its own DSMore modeling  
13   shows an average incentive level of only one-third of the measure costs—exactly the same  
14   average incentive as DCEO models for the custom program.<sup>6</sup> In other words, while the  
15   custom project can already provide much higher bonus incentives by design for any cost-  
16   effective project, HINGE appears to be a non-cost-effective program to simply pay some  
17   selected customers the same much lower incentive that participants in the Custom program  
18   get on average, and for additional non-cost-effective measures.

19           Finally, while I would support bonus incentives to encourage more comprehensive  
20   treatment that pursues all cost-effective opportunities, this program design does not  
21   actually encourage or require that. Rather than offering a bonus for deeper savings (e.g.,

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<sup>5</sup> DCEO Exhibit 2.11.

<sup>6</sup> DSMore Model Runs provided as attachments in response to data request JHL 1.02.

1 for savings that exceed some share of building energy usage), it simply offers more funds  
2 to the largest customers with the largest projects, regardless of whether they are  
3 comprehensive or not. For example, it simply provides a bonus of \$4/therm saved over  
4 50,000 therms and an additional \$5/therm over 100,000 therms. This is likely to be a  
5 function of the customer and project size much more than the level of aggressiveness in  
6 deep savings. Further, in my experience, larger projects usually have longer life times and  
7 better overall economics than smaller projects, and therefore need less proportional  
8 incentives, all else equal. DCEO has not made it clear why these particularly large projects  
9 need additional funds. Clearly, given DCEO's own estimate that these large projects will  
10 not be cost-effective, this strategy is misguided at best.

11 The ICC should direct DCEO to follow its stated Custom program plan of offering  
12 bonus incentives up to 75% of retrofit and 100% of lost opportunity incremental costs as  
13 necessary to capture cost-effective savings. There is no need to publish a completely  
14 separate program that, as modeled, does not actually offer additional incentives and only  
15 captures additional non-cost-effective savings. I further encourage DCEO to make an  
16 explicit incentive design within the Custom program that provides for enhanced incentives  
17 when capturing comprehensive savings above a certain share of current energy usage.

18  
19 **Q. Are there other targeted programs you have concerns about?**

20 **A.** Yes. DCEO proposes a standalone wastewater treatment ("WWT") facility  
21 program. WWT facilities are highly energy intensive, and typically offer large and cost-  
22 effective opportunities for efficiency improvements. As a key energy consuming portion of  
23 the public sector, these resources are certainly important. However, rather than devising a  
24 targeted marketing strategy within its Custom program to address these facilities, DCEO is  
25 proposing an entirely separate program that will ignore many of the efficiency

1 opportunities among WWT facilities, and appears to be barely cost-effective at a 1.01 TRC  
2 benefit-cost ratio.

3 The WWT program is designed to promote a single technology category– improved  
4 aeration. While this is an important efficiency measure for WWTs, it is not the only likely  
5 cost-effective opportunity. Not only is this program, as modeled by DCEO, barely cost-  
6 effective, it would achieve no gas savings at all. Given the significant thermal loads in  
7 many WWT facilities, completely ignoring gas opportunities and CHP in a standalone  
8 WWT program is inappropriate. Similarly, DCEO appears to be ignoring all other electric  
9 efficiency opportunities beyond the aeration systems. Finally, given the marginal cost-  
10 effectiveness of this program, compared to what are typically highly cost-effective projects  
11 in most public sector custom programs I am familiar with, it is not clear why DCEO will  
12 not simply target these customers and then pursue the most cost effective, comprehensive  
13 solutions for them under the Custom program.

14 The WWT program description does indicate it intends to leverage additional  
15 funding through the “IEPA SRF program and the Clean Energy Community Foundation.”<sup>7</sup>  
16 To the extent having this program separate from the Custom program facilitates this, it  
17 may be a good thing. However, given how marginally cost-effective it appears to be even  
18 with this leveraging, I recommend DCEO simply target this sector through dedicated  
19 account management in its Custom program, as well as any additional features or services  
20 necessary to effectively leverage any other government or grant funds for these customers.  
21 This will allow it greater flexibility to pursue all cost-effective opportunities in WWT

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<sup>7</sup> DCEO Exhibit 2.8.

1 facilities, ensure that all projects are highly cost-effective, and avoid confusion in the  
2 market.

3  
4 **Q. Do you have any comments about the Combined Heat and Power program?**

5 **A.** Yes. DCEO has also proposed a standalone CHP program separate from the  
6 standard and custom programs. While CHP can be a worthwhile technology, there is no  
7 reason it cannot be adequately promoted as either a Custom or Standard measure. Under  
8 that approach, DCEO can promote and incentivize CHP projects whenever they are cost-  
9 effective and make sense, but also ensure cost effective efficiency measures are adopted at  
10 the same time. By offering a separate program that is tied to a single measure it is likely  
11 these comprehensive efficiency opportunities will be ignored. Not only does this result in  
12 lost potential savings, but eliminates the opportunity for customers to first ensure they have  
13 adopted efficiency measures and then properly size the CHP system to be optimized to the  
14 lower overall facility electric and thermal loads.

15  
16 **\Q. Do you have other concerns about the CHP program?**

17 **A.** Yes. I address issues around EM&V for this program below in Section VI related to  
18 how DCEO proposes to count savings in this program.

19  
20 **Q. Do you have any comments about the Aggregation program?**

21 **A.** Yes. DCEO has proposed an Aggregation program to allow: “eligible applicants to  
22 combine projects in an effort to simplify the overall application process.”<sup>8</sup> DCEO also

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<sup>8</sup> DCEO Exhibit 2.6.

1 indicates this will help overcome the barrier created by franchise area agreements.  
2 However, I can find no explanation of how this would be. Clearly, it does not resolve the  
3 split financial incentive whereby municipal utilities do not directly receive bill savings by  
4 lowering their electric usage. Regardless, as with other programs it is unclear why this  
5 program is needed and how it is separate from its core public sector programs. Specifically,  
6 it appears to allow municipalities or non-profits to “aggregate” multiple projects in  
7 multiple buildings under a single project. However, there is no explanation as to why this  
8 would not always be allowed within the other programs, nor what additional energy or cost  
9 savings will likely come from this program. In addition, it appears to be less cost-effective  
10 than either the standard or custom programs, while not encouraging any different  
11 efficiency measures. In fact, the program description makes clear “the program will utilize  
12 other Public Sector Energy Efficiency Portfolio Standard programs for measure  
13 determination and be dependent upon the eligibility of the aggregated projects.”<sup>9</sup> In other  
14 words, it appears that effectively these aggregated projects will simply participate in the  
15 standard and custom programs, yet have to navigate a separate program and set of  
16 materials and rules.

17 I recommend DCEO simply change its program rules to stop disallowing entities to  
18 aggregate projects if they so choose. If there is a specific way that this program directly  
19 overcomes the franchise barriers to participation DCEO should make that clear in its  
20 rebuttal.

21 **Q. Do you have any comments about the Energy Performance Contracting**  
22 **Program?**

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<sup>9</sup> DCEO Exhibit 2.6.

1    **A.**     Yes. Again, this is another program I find confusing. As DCEO describes it, I  
2   believe it is an effort to assist public sector customers in developing market-based  
3   performance contracts to capture efficiency savings, working with private energy service  
4   companies (ESCOs). This is a good thing that I support. However, it is unclear why this is  
5   not simply a service of the Custom program along with SEDAC and other things that  
6   custom programs typically offer. Given the Custom and Standard programs offer financial  
7   incentives on any cost-effective projects, it is unclear why a municipality would pursue a  
8   market-based performance contract without them or their ESCO also leveraging the  
9   incentives available. If they do, then any savings would be logically counted under these  
10  other programs. So, while I support DCEO providing this assistance to help develop  
11  projects, it is unclear why this is a separate program or how it would show savings beyond  
12  that which is already being counted elsewhere. I discuss the concerns around double-  
13  counting below under the EM&V section.

14  
15  **Q.**     **Please summarize your overall concerns with DCEO's proposed portfolio and**  
16  **cost-effectiveness analysis.**

17  **A.**     DCEO is proposing over 20 separate programs to serve two primary constituencies:  
18  public sector and low income. I believe its efficiency services can be better promoted and  
19  delivered by combining into a simpler construct of services and financial incentives that  
20  focuses on customized services directed and targeted to specific segments in a more  
21  comprehensive fashion. It is not clear from DCEO's plans exactly what barriers they  
22  intend to overcome with this structure, nor why they structured it the way they have.

23         To be clear, I commend DCEO for attempting to focus on some specific resources  
24  and markets that perhaps it has not been as aggressively pursuing in past years. I have no  
25  problem if DCEO simply wants to record these activities internally in separate program

1 “buckets.” However, I believe DCEO’s overall portfolio will be more successful and  
2 provide better customer service if they provide these services in a more seamless way to  
3 their customers, and avoid any administrative program barriers. I note that DCEO Witness  
4 Ms. Mrozowski makes clear in her Direct Testimony that “Further, integration of gas and  
5 electric measures in single programs improves administration and ease of access for consumers  
6 and increases program participation.”<sup>10</sup> I fully agree with this statement. My criticisms above  
7 are meant to ensure that DCEO takes its own advice by simplifying the messaging and delivery  
8 of its programs to achieve these administrative and customer service objectives.

9 In addition to the program structure issues, DCEO’s overall portfolio is barely cost-  
10 effective, with many programs actually projected to not be cost-effective. In some cases, if  
11 the “programs” that really reflect support services to the other programs were combined  
12 into single budgets it appears that perhaps additional programs that appear marginally cost-  
13 effective would also fail cost-effectiveness screening. The lack of cost-effectiveness for a  
14 significant number of programs is particularly troubling. While it may be acceptable for the  
15 low income programs to be failing the TRC test, I believe that DCEO should be able to  
16 address the efficiency opportunities in the public sector more cost-effectively. Finally,  
17 there appears to be some inconsistencies between DCEO’s plan document, its attached  
18 program descriptions, and its cost-effectiveness modeling that I cannot reconcile.

19 Given all these concerns, I recommend that the ICC direct DCEO to more fully explain  
20 its rationale, make a compelling argument for the program structure they propose, and to  
21 make its quantitative analysis more transparent and consistent. This could be provided  
22 either in its Rebuttal Testimony or an updated filing.

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<sup>10</sup> DCEO Exhibit 1.0, Mrozowski Direct Testimony, p. 11.



**(IV.) Net-To-Gross Adjustments**

**Q. What is a net-to-gross (“NTG”) ratio?**

**A.** The NTG ratio is used to adjust the total estimated “gross” savings from all measures tracked through the program to estimate the true “net” effect that the program has produced. This can be different for a number of reasons, with the two primary components accounted for being “free ridership” and “spillover.” Free ridership refers to the portion of customers participating in the program that would have installed some or all of the efficiency measures even without the programs existence. Therefore, while these savings are counted in the program administrator’s gross savings tracking system, they do not provide true additional net savings to society since the customer would have captured some or all of the savings anyway. Spillover refers to influences of the program that result in some customers or trade allies actually pursuing additional efficiency, but not formally participating in the program. In this case, the program administrator’s gross tracking system does not count these savings, but to the extent customers and trade allies were influenced by the program and it caused them to do additional efficiency measures on their own, this savings is in fact a net effect of the program.

**Q. What is DCEO proposing regarding how NTG ratios should be determined and applied?**

**A.** DCEO proposes to eliminate future NTG adjustments to gross savings. DCEO has also bundled “realization rates” in with NTG adjustments. However, as far as I can tell, they are proposing a method of “adjusted gross savings” that continues to adjust for realization rates but not for free ridership or spillover.

**Q. What are realization rates?**

1    **A.**      Realization rates reflect the ratio of gross savings that a program administrator has  
2    tracked and estimated to the actual estimated gross savings from impact evaluations. This  
3    variance in gross savings can come from a number of things, including program  
4    administrator errors in the database, failure to accurately apply the agreed-upon TRM  
5    values, inaccurate engineering estimation of custom savings, or other factors that are  
6    generally in control of the program administrators and/or their contractors. As a result,  
7    realization rates going forward should be presumed for planning purposes to 1.0. In other  
8    words, from a planning perspective, one should assume the savings being tracked in the  
9    database are correct based on the established TRM rules and actual program activity.  
10   Evaluator adjustments to gross savings because they find a variance in the savings are  
11   simply part of the evaluator's job of determining if the savings were counted properly.  
12   Because variances between tracked savings and final evaluation numbers can reflect  
13   adjustments for things under the program administrator's control (e.g., errors,  
14   inappropriate application of the TRM, etc.), the program administrator should be held  
15   accountable for these realization rate adjustments.

16  
17   **Q.**      **Don't realization rates also adjust for things like evaluators' findings that, for**  
18   **example, participants' average hours of use or baseline efficiencies are different than**  
19   **what was assumed and agreed to? If so, wouldn't these be things beyond DCEO's**  
20   **control?**

21   **A.**      Yes, in many places this is true. It is also true in Illinois for Custom program  
22   savings estimates, which by definition are done by program administrators on a site-  
23   specific basis and therefore under their control. However, because Illinois now uses a  
24   statewide TRM with deemed savings, DCEO is protected from an evaluation finding that a  
25   reasonable average hours of use or baseline assumption for prescriptive measures is

incorrect. This finding would only affect future savings under the Illinois TRM policy. As a result, realization rates for purposes of claiming savings are primarily addressing variances over which DCEO has direct control and responsibility.

**Q. What are DCEO's assumptions in its plan about NTG ratios and realization rates?**

**A.** DCEO has assumed NTG ratios of 0.9 for low income and 0.8 for public sector programs. However, for the low income program the 0.9 is simply a realization rate adjustment: "for low income programs the number is merely a realization rate."<sup>11</sup> I do not know what portion of the 0.8 "NTG ratio" for public sector programs is represented by the realization rate component. DCEO is proposing that no adjustments be made for NTG and that only "adjusted gross savings" be counted. They are proposing the adjustments to gross savings be based on realization rates only.

**Q. What is your opinion on this proposal?**

**A.** I believe this proposal is problematic for a number of reasons. First, the Commission has been clear in numerous orders that the Section 8-103 and 8-104 program goals are net goals, and should reflect the true net savings captured. Therefore, DCEO's proposal is contrary to Commission rules. Second, as a matter of policy, it is not good practice to ignore NTG adjustments because it creates significant perverse incentives and ignores the true impact of the programs and evaluations of cost-effectiveness. Finally, as discussed below, the inclusion of an *a priori* downward adjustment to goals based on a projected realization rate less than 1.0 is inappropriate.

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<sup>11</sup> DCEO Exhibit 1.0, Mrozowski Direct Testimony, p. 35

1  
2 **Q. Please explain why elimination of NTG adjustments creates perverse**  
3 **incentives?**

4 A. The ability to encourage additional energy savings among customers is highly  
5 influenced by program designs and implementation strategies. As a result, eliminating any  
6 accountability for whether the programs actually create cost-effective net savings removes  
7 any strong desire on the part of program administrators to ensure their programs are indeed  
8 capturing additional cost-effective savings. The easiest customers and projects to fund are  
9 those that are happening regardless of the program because you do not actually have to  
10 change anyone's behavior. Without NTG adjustments, a program administrator can simply  
11 provide funding to a project that is already developed, or to a highly motivated customer  
12 that has already decided to act. If, on the other hand, DCEO is held accountable for NTG  
13 adjustments, DCEO will be incented to ensure that its programs are effectively influencing  
14 behavior and capturing new incremental savings, as Sections 8-103 and 8-104 of the PUA  
15 require. Without NTG adjustments, the easiest and most fruitful way to meet goals is to  
16 simply offer incentives to free-riders.

17  
18 **Q. Does DCEO discuss this issue of free-riders and how to maximize net savings?**

19 A. Yes. In DCEO Witness Mrozowski's direct testimony she states that "DCEO has  
20 never used free ridership as a criterion for whether a public entity is going to receive a  
21 grant or rebate."<sup>12</sup> Ms. Mrozowski seems to imply that because DCEO will allow even  
22 freeriders to participate in its programs it should be allowed to claim these savings even

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<sup>12</sup> DCEO Exhibit 1.0, Mrozowski Direct Testimony, p. 38.

1    though they are not a net effect of the program. This is misguided. Virtually every  
2    efficiency program in North America operates under the same procedures as Ms.  
3    Mrozowski has described. It would be discriminatory to deny a customer a published  
4    rebate for which it is eligible because one suspects they may be a free-rider. The issue is  
5    not whether the program honors its rebate offers for these customers, but one of accurately  
6    attempting to estimate the net impact of the program. Having to pay for free ridership is  
7    simply a cost of doing efficiency business. However, program administrators can work to  
8    ensure this is minimized through its program designs and implementation practices. The  
9    ICC has made clear that goals are intended to reflect the net effects of the programs.

10  
11   **Q.     Do you see any evidence in DCEO's plan that any savings are likely to come**  
12   **from free ridership?**

13    A.     Yes. For the low income sector, it is generally agreed that very little action would  
14    be taken without full funding from programs given the economic hurdles. So, for this  
15    sector, I believe deeming a 1.0 NTG ratio is appropriate rather than spending funds  
16    evaluating if some *de minimis* amount of free ridership is occurring. To date, the  
17    Stakeholder Advisory Group ("SAG") and the ICC have agreed with this approach and, to  
18    my knowledge, no Illinois NTG evaluations have been performed for low income  
19    customers. As a result, DCEO has never had to absorb any downward adjustments to its  
20    gross low income savings. For the low income programs the only adjustment should be to  
21    remove the 0.9% downward realization rate adjustment and set the goals 11% higher  
22    (1/0.9).

23           However, for the public sector, I have some significant concerns. Some of DCEO's  
24    "market transformation" programs are designed as Request For Proposal ("RFP")  
25    solicitations. This means customers must develop projects on their own and submit them to

1 DCEO. In my experience, a high portion of these projects may be things customers are  
2 already contemplating and planning. This is because the program has not provided the  
3 marketing, outreach, and technical assistance to help customers find opportunities they did  
4 not already know about. In addition, as mentioned above, it appears DCEO expects to pay  
5 incentives that, on average, cover about one third of the efficiency measure costs in its  
6 Custom, HINGE and Aggregation programs, which constitute the bulk of spending in the  
7 public sector. Given that customers must contribute the other two thirds, it seems likely  
8 that some of these customers might have pursued these projects despite the incentives.

9  
10 **Q. Please explain why it is inappropriate to adjust goals downward based on**  
11 **realization rates?**

12 A. As mentioned above, realization rates are intended to adjust any variances between  
13 what the program administrator estimated savings were and what evaluations ultimately  
14 estimated. As discussed above, these adjustments are generally for things within the  
15 program administrator's control, and it should be held accountable for these variances.  
16 DCEO is essentially creating a contingency buffer of savings, by designing programs for a  
17 certain savings level and then reducing the savings to conservatively set goals that are only  
18 a fraction of what they actually plan to capture, just in case evaluations find a realization  
19 rate less than 1.0. Effectively, they are simply reducing the goals they are projecting as a  
20 hedge. This is inappropriate. Moreover, while I am not a lawyer, I can find no support for  
21 such an adjustment in the plain language of the statute. At a minimum the proposed goals  
22 should be adjusted upwards to eliminate the assumed realization rates for public and low  
23 income sectors, respectively.

1   **Q.     Do you have any concerns about DCEO's analysis of net impacts and cost-**  
2   **effectiveness?**

3   A.     Yes. In response to Staff data request JLH 1.10, DCEO provided attachments 1 and  
4   2 with net and gross savings, budgets, and cost-effectiveness ratios, by program. While  
5   these tables clearly show the lower net savings, they show exactly identical total resource  
6   cost ("TRC") test benefit-cost ratios for every program and the portfolio as a whole, to two  
7   decimal places. This is not possible if screened correctly. Quite simply, it is impossible that  
8   the same programs can have the exact same cost-effectiveness while achieving 20% less  
9   savings (in the case of public sector programs), all else being equal. Given that DCEO is  
10   only projecting an overall benefit-cost ratio of 1.07 for the portfolio (1.18 with the addition  
11   of the NEBS adder), there is very little room for error here. Also, as far as I can tell from  
12   review of some of the DSMore input files, I believe they have screened everything based  
13   on the gross savings, which would result in a higher TRC benefit-cost ratio than if they had  
14   screened the net savings as they should have. Therefore, it is unclear whether even the  
15   entire portfolio reflects a cost-effective plan. While I cannot determine whether this  
16   benefit-cost ratio is correct, nor whether it represents the gross or net scenario, this single  
17   fact makes me very concerned about DCEO's analysis in general. Given that numerous  
18   programs DCEO has proposed do not even pass the TRC cost-effectiveness test based on  
19   their own analysis, I cannot support this plan without a much better understanding of  
20   exactly what these numbers represent. In their Rebuttal filing in this docket, I would ask  
21   that DCEO explain these perceived discrepancies.

22  
23   **(V.)   Flexibility**

24   **Q.     What is DCEO requesting in terms of flexibility?**

1    **A.**     DCEO has proposed unlimited flexibility to modify its Plan 3 as it chooses, so long  
2    as it is consistent with any clear statutory or regulatory rules (e.g., that budgets do not  
3    exceed the budget cap). It appears that DCEO is asking for unilateral permission to make  
4    these changes as it sees fit without any stakeholder or Commission approval.

5  
6    **Q.**     **Do you support DCEO flexibility request?**

7    **A.**     Not completely. In most circumstances I am very supportive of allowing program  
8    administrators wide latitude to make plan and program design modifications as they see fit,  
9    based on what they are learning in the field, how markets are responding, and to effectively  
10   and in a timely manner make mid-course corrections to improve program effectiveness.  
11   Ideally, I would still like DCEO to have the ability to do this. However, I believe DCEO's  
12   request is too broad. Until recently, before the cost cap provisions of Section 8-103 and 8-  
13   104 were triggered, the utilities and DCEO had established goals and budgets, and if a  
14   program administrator found better and more effective ways to meet the goals while still  
15   achieving broad policy objectives, this flexibility was appropriate. However, now that the  
16   budget constraints induced by the statutory cost caps are drastically limiting the  
17   established goals, DCEO is asking the Commission to approve goals that are specifically  
18   based on its particular proposed mix of programs and measures. Allowing unfettered  
19   flexibility makes it much easier for DCEO to simply diverge from its approved plan and  
20   shift budgets from more expensive to less expensive programs. In effect, this allows DCEO  
21   to set the goals based on an expensive mix of resources and then easily achieve it by  
22   pursuing less expensive resources. Had the Commission been given the less expensive plan  
23   from the outset, all else equal, it would have set DCEO's goals higher. Therefore, I believe  
24   unlimited flexibility opens up too many opportunities to game the goal setting and  
25   achievement process.



1

2 **Q. Can you further explain and give an example of how this could occur?**

3 **A.** Yes. As noted above, DCEO is proposing goals that are drastically modified  
4 downward from those originally intended in Sections 8-103 and 8-104, given the statutory  
5 budget cap limits<sup>13</sup>. On the electric side, DCEO projects capturing public sector savings for  
6 an average of 25 cents/first-year kWh. However, it projects a cost of 97 cents/kWh for the  
7 low income sector, and \$1.33/kWh for the market transformation programs. Therefore, if  
8 the ICC approves goals for this plan and then DCEO chooses to shift some low income and  
9 market transformation budgets to the public sector it would become far easier for it to meet  
10 its goals. As a result, complete flexibility begins to undermine the intent of approving  
11 plans in the first place, if there is no obligation to follow them.

12

13 **Q. Do you have a proposal that can still provide DCEO some flexibility while**  
14 **addressing your concern?**

15 **A.** Yes. As I suggested in my Direct Testimony in Ameren's Plan 3, Docket No. 13-  
16 0498, I suggest the ICC establish some limits on flexibility. While these limits would not  
17 prevent DCEO from exceeding them should they so choose, it would trigger goal  
18 adjustments should DCEO choose to exceed them.

19 Specifically, I propose that any shifts of budgets that result in a variance from  
20 planned annual program budgets of 20% or more would trigger goal adjustments. In other  
21 words, DCEO could underspend 10% in one program and overspend 15% in another  
22 program with no adjustments. However, if they were to shift resources beyond the 20%

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<sup>13</sup> See 220 ILCS 5/8-103(d); 8-104(d).

1 benchmark, then goals would be modified accordingly. For example, if program A had a  
2 cost of 40 cents/kWh and program B had a cost of only 5 cents/kWh, and if DCEO shifted  
3 funds beyond the limit from program A to program B, a commensurate increase in goals  
4 would be triggered based on the eight-times higher amount of kWh expected to come from  
5 the shifted dollars than was originally planned. I note that this can also work in DCEO's  
6 favor if they are having success with an expensive program and want to shift funds into it  
7 from a cheaper program.<sup>14</sup>

8  
9 **Q. Does this limit on flexibility resolve the other concerns you mention above**  
10 **about DCEO's overall plan?**

11 **A.** No. I recommend the ICC direct DCEO to fully explain the rationale and  
12 justification for the program allocation it has selected and confirm programs are cost-  
13 effective or make a clear case why they should still be promoting programs that are not  
14 cost-effective. DCEO should explain this in their Rebuttal Testimony. However, regardless  
15 of the ultimate approved plan, I support some limits on flexibility that would trigger goal  
16 adjustments to reflect the changes.

17  
18 **Q. Do you have any further recommendations on flexibility?**

19 **A.** Yes. I recommend the ICC order DCEO to first bring any proposed modifications  
20 to the SAG for discussion and ideally to build consensus around the change. This should  
21 happen whether or not the 20% limit is exceeded, but is particularly important for

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<sup>14</sup> In other words, it would result in a decrease in *goals* and protect DCEO in the event that a relatively inexpensive program is not working well and they decide to shift funds to more expensive program.

significant changes.<sup>15</sup> The SAG has proven to be an effective sounding board to allow various stakeholders to provide input and ultimately help build support for the programs while providing the program administrators with an added level of security in knowing if any stakeholders have major concerns prior to any after-the-fact litigation. While I do not suggest the SAG should be delegated the authority to overrule a program administrator decision, this process will ensure all stakeholders are aware of proposed changes and that DCEO has the opportunity to consider differing points of view prior to any final decision. In the event that a modification does require a modified goal, it can also reduce contentious litigation by ensuring all parties reach consensus on the exact amount to modify goals.

## **(VI.) Evaluation, Measurement and Verification**

### **Q. Please summarize your EM&V concerns?**

**A.** Below I list four concerns related to how DCEO expects to measure, verify and evaluate savings.

1. It is unclear how DCEO plans to estimate, evaluate, deem or otherwise claim savings for its code compliance initiative.
2. DCEO proposes an arbitrary mechanism for claiming Combined Heat & Power (“CHP”) savings based on an allocation of primary BTU savings across both electricity and gas sectors, rather than on traditional Illinois practice rooted in

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<sup>15</sup> Certainly, it is often the case that without any intentional plan modifications a particular program can be somewhat under or over spent. I am referring here to explicit plan changes, not simply a program coming in at somewhat more or less than the original planned budget at program year end.

1 actual customer impacts at the meter that are reflected in the utility distribution  
2 system loads.

3 3. DCEO indicates it may count savings from its SEDAC and Performance  
4 Contracting programs. However, I am concerned about the possibility of  
5 double-counting savings between these programs and the core public sector  
6 programs. In addition, I cannot reconcile DCEO's apparent proposal to  
7 eliminate all measurement and adjustment based on spillover yet count  
8 spillover savings for these programs.

9  
10 **Q. Please further explain your concerns around EM&V for the Code Compliance**  
11 **initiative?**

12 A. DCEO proposes a codes compliance initiative under its market transformation  
13 programs that would encourage better building efficiency code compliance by offering  
14 training, development of an infrastructure of building inspectors, and offering to fund  
15 building inspection costs. This approach may be worthwhile as a market transformation  
16 effort in Illinois to develop the workforce, expertise and resources for effective code  
17 enforcement and compliance. However, it is unclear how DCEO intends to estimate and  
18 claim savings for this initiative.

19 I am involved in a number of leading national efforts to develop initiatives similar  
20 to what DCEO proposes. In Massachusetts and Rhode Island, where I have been involved  
21 in this recently, we have spent numerous meetings and planning efforts over two years to  
22 develop methods of claiming and attributing savings over time to these efforts. In addition,  
23 I was recently a co-author on a report on these issues for the Northeast Energy Efficiency

1 Partnership (“NEEP”).<sup>16</sup> In short, there are complex issues around trying to measure  
2 improved code compliance, and to attribute any improvements to particular programmatic  
3 actions. In addition, because of the long lag time between new code adoption cycles, new  
4 construction building cycles, actual design and construction of buildings, and then  
5 performing studies to identify compliance changes, it is questionable whether the limited  
6 evaluation resources could adequately even attempt to estimate these impacts in Illinois,  
7 and almost definitely not prior to the close of Plan 3.

8 I have not found any specific discussion by DCEO of how they developed savings  
9 estimates for this initiative, nor what they are proposing as rules and attribution factors to  
10 actually claim savings from this initiative, and whether they are proposing deemed *ex ante*  
11 values or a mechanism to estimate savings *ex poste*. While I am not opposed to DCEO  
12 pursuing this strategy and claiming some savings, I cannot support the numbers presented  
13 without any specific explanation and proposal as to how DCEO plans to quantify this and  
14 what assumptions underlay them. It is hoped that DCEO would clarify this in its Rebuttal  
15 filing, or that the ICC direct them to do so in a revised Plan 3 filing.

16  
17 **Q. Explain your concerns with claiming savings for the CHP program DCEO**  
18 **proposes.**

19 **A.** I support cost-effective promotion and adoption of CHP technology. However,  
20 DCEO has proposed what appears to be an arbitrary method of counting savings for this  
21 measure that diverges from standard practice in Illinois for claiming “customer side of the  
22 meter” savings. Specifically, they propose to calculate a primary BTU savings on the entire

---

<sup>16</sup> NEEP, *Attributing Building Energy Code Savings to Energy Efficiency Programs*, February 2013.

economy<sup>17</sup> and then arbitrarily allocate this savings estimate, with 80% assigned to electricity and 20% to gas savings. I believe this is inconsistent with normal practice in Illinois for claiming efficiency savings. It also has the potential to reduce the transparency and usefulness of the Section 8-103 and 8-104 savings data for planning and forecasting purposes. This is because savings figures will no longer accurately reflect estimated efficiency impacts on the utility distribution system loads. DCEO does not seem to explain why they have proposed this approach.

**Q. Can you explain how CHP provides energy savings?**

**A.** Yes. CHP projects are essentially fuel switching projects. In other words, while they improve overall efficiency, they perform this by using natural gas or some other fuel to generate both electricity and thermal energy. As a result, the effect of installing CHP is to save electricity while often increasing the usage of some other fuel. Because the overall efficiency of the system is typically higher than that of the average central plant generators, overall energy is saved on a primary BTU basis. DCEO appears to have chosen a method of estimating this primary energy savings and then arbitrarily allocating 80% of the savings to electricity and 20% to natural gas. The DCEO Plan also draws funding from these two sectors in those 80%/20% proportions.

**Q. Why do you think DCEO's approach is misguided?**

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<sup>17</sup> They propose using an average generation heat rate to estimate this savings as well. This is problematic because baseload coal plants typically have much worse heat rates than more recent gas plants that are more likely to be saved on the margin from CHP. As a result, if DCEO uses this proposed approach it is likely that it would overestimate primary BTU savings.

1     **A.**     The Section 8-103 and 8-104 programs are designed to reduce customer use of  
2     electricity and gas, respectively. For all other measures and programs in Illinois, savings  
3     are counted based on the impact of the customer's energy savings at the meter. By  
4     diverging from this approach I believe DCEO:

- 5         • has not made clear any reason or justification for this more complicated and non-  
6         standard approach;
- 7         • reduces the transparency of EEPS savings numbers in Illinois whereby planners,  
8         evaluators, and forecasts will have difficulty understanding the true impacts on the  
9         electric and gas systems and how the EEPS impacts affect planning functions;
- 10        • clearly diverges from current practice of counting actual customer impacts at the  
11        meter;
- 12        • implies these customers will save gas and that the loads on the gas distribution  
13        company systems will go down, when in fact they will increase in most cases;
- 14        • under-estimates the actual electric savings on the electric utility systems;
- 15        • improperly accounts for the economics of CHP because they will be applying  
16        avoided costs to incorrect numbers that do not actually reflect the changes on the  
17        utility systems;
- 18        • further confuses savings estimates for CHP projects that are not gas-fired by  
19        allocating non-existent gas savings to them; and
- 20        • requires gas ratepayers to fund 20% of the CHP program, despite all the savings  
21        occurring on the electric system, which is inconsistent with how costs are assigned  
22        for these programs under Section 8-104 of the PUA.

1    **Q.     Are there any analogous savings calculations that Illinois program**  
2    **administrators have used in the past?**

3    **A.     Yes.** Efficient lighting typically results in less waste heat coming off of lights. As a  
4    result, the TRM reflects this impact by recognizing the increased heating energy usage  
5    (often provided by natural gas) from this electric efficiency measure. Fundamentally, CHP  
6    is no different. It is simply an electricity saving measure that has also creates an increase in  
7    natural gas usage.

8  
9    **Q.     What do you recommend for counting CHP savings?**

10   **A.     I recommend DCEO count CHP energy savings just like any other measure. In**  
11   other words, energy savings should quantify the various electric and fuel impacts at the  
12   customer's meter, and on the local distribution utility systems. DCEO has not made clear  
13   why they do not want to do this, or why such a quantification approach would be difficult  
14   or inefficient. This approach will increase transparency around savings for customers, as  
15   well as the utilities and stakeholders. It will also be consistent with the statutory energy  
16   efficiency program guidelines. Also, the funding for this program should come from the  
17   electric EEPS funds since the measure is an electricity saving measure and the electric  
18   avoided cost benefits will accrue to electric ratepayers.

19  
20   **Q.     What are your concerns about double-counting of savings?**

21   **A.     As noted earlier in my testimony, DCEO proposes a “market transformation”**  
22   program known as SEDAC. This “program” essentially appears to be the technical  
23   assistance (“TA”) component of DCEO's rebate programs. It will offer public sector  
24   customers TA services at a number of different levels, from initial consultation to energy  
25   audits, to detailed design assistance and implementation support. Presumably any customer



1 that follows through with actual implementation of the recommended measures would also  
2 collect financial incentives through either the Standard, Custom, Aggregation or New  
3 Construction public sector programs, since they would by definition be working with  
4 DCEO on a project and receiving these customized TA services. As a result, it is not clear  
5 why there would be additional savings for this “program” beyond those already counted in  
6 other programs. DCEO shows projected gross savings from this program of 1,250 MWh  
7 and about 187,000 therms in program year 1.<sup>18</sup> While it is certainly possible that this  
8 program will result in some spillover savings from customers that perhaps decline to  
9 follow-thru with collecting the financial incentives but still act on the TA  
10 recommendations, it is not clear that is the basis for these savings estimates. Given  
11 DCEO’s clear proposal to only count gross savings, any projection of spillover seems  
12 somewhat in contradiction with this proposal.

13 Similarly, the Energy Performance Contracting program is a program that seeks to  
14 assist public sector customers in using performance contracting to do efficiency projects.  
15 DCEO would provide various services to assist these customers in understanding, setting  
16 up and navigating these sometimes complex contracts. Again, presumably, any customer  
17 and their energy service contractor (“ESCO”) involved in this program would clearly be  
18 engaged with DCEO, understand the financial incentives available and be motivated to  
19 collect them. Indeed, ESCOs have generally been most active in parts of the country with  
20 aggressive incentives specifically because the economics of their projects are better when  
21 they can leverage program rebates. Given these facts, I would assume any savings being  
22 claimed under this program have the potential to reflect double counting of savings also

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<sup>18</sup> From DCEO response to data request JLH 1.10 attachments.

1 being recorded in an incentive program (Standard, Custom, New Construction, Retro-  
2 commissioning, or Aggregation). To the extent that DCEO's evaluators can document  
3 some spillover by expanding the ESCO workforce and market, and showing customers are  
4 investing in additional projects are not being counted elsewhere, DCEO should  
5 appropriately claim this spillover. However, as with SEDAC, I am not clear whether that is  
6 DCEO's intent given its proposal to only count adjusted gross savings.

7 The above is just one example of why I recommend that DCEO instead simply treat  
8 these ancillary services as part of their overall programs rather than standalone programs.

## 9 (VII.) IPA Procurement Mechanism

10  
11 **Q. DCEO's Plan does not include any leveraging of programs under Sections 8-**  
12 **103 and 8-104 of the PUA with additional resources offered through the Illinois**  
13 **Power Authority ("IPA") Procurement process, provided for under Section 16-**  
14 **111.5B of the Act. Can you comment on that opportunity?**

15 **A.** DCEO submitted a proposal for program expansions to the IPA for funding and  
16 implementation under 16-111.5B. However, the IPA rejected the proposal based on its  
17 interpretation of the law which, according to the IPA Procurement Plan pending in Docket  
18 No. 13-0546 rejects bids from non-utilities. Unfortunately, IPA's interpretation of Section  
19 16-111.5B is that only Utilities can present proposals for additional energy efficiency  
20 programs to the IPA, and that if DCEO wants to participate, it must do so through the  
21 Utility RFP process outlined in that section of the PUA.

22 Further, in response to NRDC data request 1.02, DCEO has indicated that State  
23 procurement rules preclude DCEO from responding directly to the Utilities' RFP process,  
24 which solicits programs that are ultimately submitted to the IPA. According to this data

1 request response, DCEO cannot participate in this RFP process because it would bind  
2 DCEO to a proposal prior to actually contracting vendors to provide the service, in  
3 violation of State procurement laws. This appears to create a situation where, while the  
4 intent of 16-111.5B in my view is clearly to allow program administrators to bid Section  
5 8-103 program expansions into the IPA procurement process, there is a legal “catch 22”  
6 that prevents these expansions from happening.

7  
8 **Q. What aspects of DCEOs programs could potentially be expanded or added to**  
9 **under the IPA procurement mechanism if these legal issues were resolved?**

10 **A.** DCEO’s target market of low income customers is a customer segment that could  
11 truly benefit from DCEO’s expansion of low income programs. DCEO has proposed goals  
12 for the low income sector that are substantially below the Section 8-103 and 8-104  
13 statutory goals because of budget caps that prevent it from fully serving this important  
14 sector. As a result, I believe there is ample opportunity to provide expanded low income  
15 services through the IPA mechanism. Low income customers are an important segment for  
16 various public policy and equity reasons, and all parties should find a way to resolve these  
17 legal problems to ensure that Illinois can leverage the IPA procurement mechanism to fully  
18 serve low income customers at maximum achievable and cost-effective levels.

19  
20 **Q. Do you have any recommendations for the Commission related to the IPA**  
21 **legal issues?**

22 **A.** Yes. While I am not a lawyer, I believe the Commission can assist parties in  
23 resolving this problem. First, I encourage the Commission to consider the legal restrictions  
24 and determine if it has any ability to order a solution within the constraints of 16-111.5B  
25 and State procurement laws. I would observe, too, that the DCEO Plan in this docket is

1 being reviewed by the Commission just as the Utilities' Plans are. My point is that DCEO  
2 is a Program Administrator – at least for the public sector and low income customer groups  
3 – just as the Utilities are Program Administrators for the remaining customer groups. It  
4 also occurs to me that perhaps DCEO could participate in the utilities' RFP bidding  
5 process, but with a clear statement that the proposals are conditional on it successfully  
6 procuring the appropriate contractors after initial approval by the IPA. While I have no  
7 familiarity with State procurement laws, I assume that State agencies must, at times, have  
8 the capability to plan for future actions without first having contracts in place.

9 At a minimum, I believe this situation can and should be resolved, and encourage  
10 the Commission to direct DCEO, the Utilities and the IPA to convene a collaborative  
11 workshop process to fully explore and resolve these issues so that DCEO can effectively  
12 submit expanded Section 8-103 low income programs into the IPA 2014 procurement  
13 process.

#### 15 (VIII.) Stakeholder Advisory Group Process

16  
17 **Q. You mentioned that you have been and are an active member of the**  
18 **Stakeholder Advisory Group. Do you support its continuation as a forum for**  
19 **consideration and resolution of energy efficiency policy, procedures and technical**  
20 **issues?**

21 **A.** Yes, I do. The Commission established the energy efficiency SAG in the Final  
22 Orders approving the first three-year Section 8-103 Plan Filings. (See, e.g., Docket 07-  
23 0539, Final Order, mimeo p. 24.). The Commission's directives on the stakeholder process  
24 included:

- 1 • reviewing progress toward achieving the required energy efficiency and demand
- 2 response goals and to continue strengthening the portfolio;
- 3 • reviewing final program designs;
- 4 • establishing agreed-upon performance metrics for measuring portfolio and program
- 5 performance;
- 6 • reviewing Plan progress against metrics and statutory goals;
- 7 • reviewing program additions or discontinuations;
- 8 • reviewing new proposed programs for the next program cycle; and
- 9 • reviewing program budget shifts between programs where the change is more than
- 10 20%.

11  
12 ICC Docket No. 07-0539, Order of February 6, 2008 at 24.

13 The Commission expanded the role of the SAG in the orders approving the second,  
14 three-year Section 8-103 plans to include discussion of the following topics to include:

- 15 • reviewing new program proposals,<sup>19</sup> cost-effective demand response measures<sup>20</sup>
- 16 and real-time pricing proposals<sup>21</sup>;
- 17 • considering other sources of funding that could be used to fund energy
- 18 efficiency outside of ratepayer funds<sup>22</sup>;
- 19 • developing a TRM jointly with the SAG and other utilities and providing
- 20 annual TRM updates<sup>23</sup>;
- 21 • participating in a joint gas-electric SAG<sup>24</sup>; and
- 22 • considering Net-to-Gross Framework updates, with enumeration of consensus
- 23 and dissenting opinions<sup>25</sup>.

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19 ICC Docket No. 10-0568, Order of December 21, 2010 at 25.

20 *Id.* at 28.

21 *Id.* at 44.

22 *Id.* at 44.

23 *Id.* at 70.

24 *Id.* at 87-88;

25 *Id.* at 72.

1  
2 The AG supports continued operation of the SAG for the duties listed above. The  
3 SAG process to date has fostered dialog, collaboration, education on key issues relating  
4 to efficiency, and opportunities to comment upon and inquire about new and modified  
5 programs. The AG commends DCEO for working with the SAG to seek input and  
6 help develop new, innovative program ideas, and for engaging experts from the  
7 University of Illinois to provide technical and policy support and analysis to inform  
8 SAG discussions and contribute to the TRM. The AG requests that the Commission  
9 order DCEO to continue participating in the SAG for the duties listed above and in this  
10 testimony. In addition, the AG requests that the Commission direct DCEO to work  
11 with the SAG on the following:

- 12 • improving the evaluation, measurement and verification (EM&V) process so  
13 that reports are produced in a timely fashion to inform TRM and NTG updates;
- 14 • providing SAG input to draft EM&V plans so that SAG participants can  
15 recommend information and data that is gather and produced through the  
16 EM&V process;
- 17 • requiring DCEO evaluators to concurrently send draft EM&V reports to DCEO,  
18 the ICC and the SAG;
- 19 • providing written quarterly reports to the SAG no later than forty-five (45) days  
20 after the close of the quarter that contain program and portfolio-level  
21 accomplishments (kWh, kW, therms) relative to goals, program and portfolio-  
22 level expenditures relative to budget forecasts, any fund shifts greater than 20%  
23 of program budgets, expenditures on administrative costs, EM&V costs and  
24 marketing and outreach costs;
- 25 • an Illinois Energy Efficiency Policy Manual, designed to streamline and  
26 encourage consistency on various program-related policies for review and  
27 approval by the Commission; and

- 1           • reviewing “best practices” program models for serving low and low-moderate  
2           income customers to ensure that Illinois is a national leader in effectively  
3           serving low and low-moderate income customers.

4

5   **Q.     Does this conclude your testimony at this time?**

6   **A.     Yes.**